

Regulatory Basis for Conducting Risk Communication during Environmental Restoration Activities

This portion of the website provides an overview of the major legal drivers that require the Navy to conduct open communication with all interested stakeholders during installation restoration activities of hazardous wastes sites. Guidance for risk communication can be found both in the environmental and health and safety standards. The information here is not intended to be comprehensive as to make the reader a regulatory expert. Rather, its purpose is to give the reader sufficient information on relevant regulations as to why the Navy must conduct risk communication activities as part of the management of the installation restoration program.

“Communicating the results of our work in a clear manner will lead to a better understanding of environmental risks and how best to manage those risks. As citizens become better acquainted with the scientific basis for EPA's actions, they can make more informed decisions concerning the environment, their health, and the health of their families.”

Christine Todd Whitman, Administrator,
United States Environmental Protection Agency

Introduction

Incorporating good risk communication is an integral part of every Navy environmental, health, and safety program. Open communication with all interested stakeholders is required by Federal regulations. Several federal laws and regulations include public involvement requirements, which mandate environmental risk communication programs and efforts. Within the Department of Navy, program areas requiring risk assessment/communication support include the prevention pollution program, occupational health programs and the Navy's onconus hazardous waste cleanup efforts. This section will provides the Federal regulations, as well as Navy policy, requiring stakeholder involvement in risk assessment, risk management and occupational safety and health for environmental restoration activities. The following is a partial list of regulations that identify and discuss stakeholder involvement.

United States Environmental Protection Agency (USEPA) **Regulations and Web sites.**

National Environmental Policy Act (NEPA), (40 CFR Parts 1500-1508)

The National Environmental Policy Act (40 CFR Parts 1500-1508), as implemented by the Council on Environmental Quality Regulations, requires public involvement in the Environmental Impact Statement (EIS) process.

<http://www.epa.gov/region04/water/pgtab/nationalpolicyact.html>

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), (U.S. House of Representatives, U.S. Code, Title 42, Chap. 103)

The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA or Superfund) provided broad federal authority to respond directly to releases, or threatened releases of hazardous substances that may endanger public health or the environment. <http://www.epa.gov/superfund/action/law/cercla.htm>

Superfund Amendments and Reauthorization Act (SARA), (U.S. House of Representatives, U.S. Code, Title 42, Chap. 103)

The Superfund Amendments and Reauthorization Act (SARA) amended CERCLA on October 17, 1986. The USEPA's experiences in administering the complex Superfund program during its first six years resulted in SARA, which made important changes and additions on the specific procedures required to assess the release of hazardous substances at inactive waste sites. Those procedures involve the inclusion of "community relations" in the evaluation process. Specific changes relating to risk communication are:

- Increased state involvement in every phase of the Superfund program; and
- Encouraged greater citizen participation in making decisions on how sites should be cleaned up.

<http://www.epa.gov/superfund/action/law/sara.htm>

National Contingency Plan (NCP), (40 CFR 300)

The National Oil and Hazardous Substance Pollution Contingency Plan (NCP) is the regulation that implements CERCLA. The NCP is the federal government's blueprint for responding to both oil spills and hazardous substance releases. The NCP establishes the overall approach for determining appropriate, remedial action at Superfund sites. The NCP identifies nine separate criteria for evaluating alternatives for acceptable remedial actions. Two of the criteria entitled "Modifying Criteria," state acceptance and community acceptance, emphasize the importance of establishing public involvement early and throughout the process. The following is a list of NCP risk communication requirements by section.

- Sect 300.155 Public Information and community relations:
 - Requires that the public be given prompt accurate information on the nature of an incident, and the actions to mitigate.
- Sect 300.415 (m), Community relations in removal actions:
 - Designate a spokesperson
 - Publish notice of availability of Admin record, allow public comment
 - Respond to comments.
 - Conduct interviews with local officials, residents, groups to solicit concerns, needs and how they would like to be involved.
 - Prepare formal community relations plan (CRP).
- Sect 300.430 (c) Community relations:

- Conduct interviews.
- Prepare a CRP.
- Establish information repository.
- Inform availability of TAG.
- Sect 300.430 (f) Community relations to support the selection of remedy:
 - Proposed plan, notice of availability, public comment period.
 - Provide opportunity for a public meeting to be held during the public comment period.

<http://www.epa.gov/oilspill/ncpover.htm>.

Safe Drinking Water Act (SDWA), (U.S. House of Representative, U.S., Code, Title 42, Chap 300)

The Safe Drinking Water Act (SDWA) requires public notices for failure to comply with the maximum contaminant levels of the SDWA and public notification regarding the level of contaminants in drinking water as required by the SDWA.

<http://www.epa.gov/region5/defs/html/sdwa.htm>

Community Environmental Response Facilitation Act (CERFA), (Pub. L. 102-426, 1992)

Congress enacted the Community Environmental Response Facilitation Act (CERFA) on 19 October 1992. CERFA amends CERCLA to facilitate the rapid identification and return to local communities of clean properties identified in the Base Realignment and Closure process. The Act requires “appropriate consultation with the public and coordinating and concurring with regulatory agencies” to make property available for reuse in a timely manner. http://tis-nt.eh.doe.gov/oeпа/law_sum/CERCLA.htm

Emergency Planning and Community Right to Know Act (EPCRA)

Emergency Planning and Community Right to Know Act (EPCRA) was passed as part of SARA. The regulations contain provisions for reporting both accidental and non-accidental releases of certain toxic chemicals. EPCRA requires that facilities collect information to assess the dangers of hazardous chemicals present within their jurisdiction, to develop emergency response plans, to train emergency response personnel and to better respond to chemical spills. <http://www.epa.gov/region08/toxics/epcra/epcra.html>

Occupational Safety and Health Administration (OSHA) **Regulations and Web Sites.**

Occupational Safety and Health Act (OSH Act) Hazardous Waste Operations (HAZWOP) Standard (29 CFR 1910.120)

The Hazardous Waste Operations Standard requires that all employees, supervisors and management working on a hazardous waste site and exposed to hazardous substances be trained in the health hazards or safety hazards before they are permitted to engage in hazardous waste operations. <http://www.osha.gov/comp-links.html>

Occupational Safety and Health Act (OSH Act) Hazard Communication Standard (HAZCOM) (29 CFR 1910.1200)

The Hazard Communication Standard (HAZCOM) standard contains provisions for communicating information concerning hazards of specific chemicals and appropriate protective measures to employees who use them. HAZCOM requires that the hazards of all chemicals produced or imported are evaluated, and that the information concerning their hazards is transmitted to employees and employers. This is to be accomplished by a comprehensive hazard communication program, which is to include container labeling and other forms of warning, material safety data sheets and employee training.

<http://www.osha.gov/comp-links.html>

Department of Navy and Marine Corps Regulations and Web Sites

Navy Environmental Programs Manual (OPNAVINST 5090.1B), Chapter 8 “Drinking Water Systems and Water Conservation”.

This chapter requires that CHBUMED provide health-related advice to Navy commands in carrying out their responsibilities for water quality and distribution. It also requires CHBUMED to ensure that all health and safety issues are addressed for all lead mitigation measures considered by COMNAVFACENGCOM especially chemical addition used to address lead in drinking water. <http://neds.nebt.daps.mil/5090.htm>

Chief of Naval Operations (N45), Navy Policy for Conducting Human Health Risk Assessments (HRAs) under the Environmental Restoration Projects

The Chief of Naval Operations released the “Navy Policy for Conducting Human Health Risk Assessments Related to the Installation Restoration Program” on 21 February 2001, <http://www-nehc.med.navy.mil/HHRA/guidancedocuments/policy/pdf/hrapolicy.pdf>.

The Navy policy identifies a three-tiered management approach emphasizing, “Frequent interactions and concurrence among the Navy project team, regulators, contractors and stakeholders.”

Navy Marine Corps Installation Restoration Manual, Naval Facilities Engineering Command, Alexandria, Virginia, 2000

The Navy Marine Corps Installation Restoration Manual, Naval Facilities Engineering Command <http://enviro.nfesc.navy.mil/esc414/Techinfo/techinfo.htm> represents a compilation of Defense Environmental Restoration Program requirements, policy, and guidance for both the United States Navy and the United States Marine Corps. The Defense Environmental Restoration Program (DERP), codified in 10 U.S.C. 2701-2709 and 2810, gave the DoD IR Program a statutory basis. The Navy/Marine Corps implements the DERP subject to and in a manner consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, and its implementing regulation, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), codified in 40 CFR 300.

Navy Occupational Safety and Health Program Manual (OPNAVINST 5100.23E), Chapter 7 “Hazardous Material Control and Management (HMC&M)”

Identifies occupational safety and health functions and defines requirements and responsibilities for shore activity hazardous control and management. Specific provisions for hazard communication training are provided.

<http://neds.nebt.daps.mil/5100.html>

Additional Information

An excellent source of information on the laws that mandate risk communication is chapter 3 of “Risk Communication, A Handbook for Communication Environmental, Safety, and Health Risks”, Second Edition, Regina E. Lundgren and Andrea H. McMakin, Battelle Press, 1998.